



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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March 12, 2014

Mr. Morgan Elmer  
National Park Service  
P.O. Box 25287  
Denver Service Center  
Environmental Division  
Denver, CO 80255-0287

SUBJECT: Everglades National Park Acquisition of Florida Power and Light Company Land  
In the East Everglades Expansion Area Draft Environmental Impact Statement,  
Miami-Dade County, Florida

Dear Mr. Elmer:

The U.S. Environmental Protection Agency (EPA) has reviewed the referenced Draft Environmental Impact Statement (DEIS) in accordance with its responsibilities under Section 309 of the Clean Air Act and Section 102(2)(C) of the National Environmental Policy Act (NEPA). The National Park Service (NPS) proposes to acquire existing Florida Power and Light (FPL) land within the Everglades National Park (Park), or sufficient interest in the property, to facilitate hydrologic and ecologic restoration of the Park and Everglades ecosystem. The NPS states this action is needed to support the mission of the NPS and the Park, because the East Everglades Expansion Area (EEEA), which includes the existing FPL parcel, has been identified as vital to long-term protection of the Park for ecosystem restoration purposes. Further, NPS states the acquisition of the existing FPL parcel within the EEEA is needed to support the goals of restoring the Northeast Shark River Slough (NESRS) and to fulfill the purposes of the Modified Water Deliveries project and the Comprehensive Everglades Restoration Plan (CERP).

The FPL parcel is a linear north-south corridor between 330 feet and 370 feet in width and approximately 7.4 miles in length within the Park. The parcel was purchased by FPL in the 1960s and early 1970s, prior to the expansion of the Park, with the intention of supporting future transmission lines from the Turkey Point power plant.

The DEIS examines 6 alternatives, which compares the "No Action" alternative to "Action Alternatives". Below is a description of each alternative:

- Alternative 1A: No NPS Action-No FLP Construction is the "No Action" alternative and assumes that the NPS would take no action to acquire FPL property within the EEEA or a flowage easement on it. Alternative 1A is considered the status quo or baseline

- alternative. Alternative 1A also assumes that FPL would not construct transmission lines on its existing land in the Park, in the exchange corridor, or in any area outside the Park.
- Alternative 1B (No NPS Action – FPL Construction in the Park) considers FPL construction of transmission lines on their existing land in the Park (FPL’s “West Secondary Corridor”), but the NPS would not take action to acquire FPL property within the Park or a flowage easement on it. With respect to the action selected for acquisition, it is the same as Alternative 1A.
  - Alternative 2 (NPS Acquisition of FPL Land) the NPS would acquire the FPL corridor through direct purchase or through the exercise of eminent domain authority by the United States. This alternative would result in an increase of 320 acres of NPS-owned land within the authorized boundary of the Park and would allow for flowage of water on this property. The NPS identified Alternative 2 as the environmentally preferred alternative.
  - Alternative 3 (NPS Fee for Fee Land Exchange) requires the NPS to acquire fee title to the FPL property (7.4-mile-long corridor containing 320 acres of FPL lands) through an exchange for Park property, as authorized by the exchange legislation. NPS land conveyed to FPL would consist of 260 acres along 6.5 miles of the eastern boundary of the EEEA, which would be a net gain of 60 acres of federally owned Park land. The NPS fee for fee land exchange would require a flowage easement as a term and condition of the land exchange. In this scenario, FPL transmissions lines could potentially be constructed along the eastern boundary of EEEA.
  - Alternative 4 (Easement for Fee Land Exchange) would require the NPS acquire fee title to the FPL property (7.4-mile-long corridor containing 320 acres of FPL lands) through an exchange for an easement on NPS property. The NPS would grant an easement to FPL on 260 acres of Park land along 6.5 miles of the eastern boundary of the EEEA for potential construction of transmission lines, in accordance with the terms and conditions developed for this “easement for fee” exchange. Under this easement for fee exchange, NPS would retain ownership of the corridor. However, the NPS terms and conditions would only allow FPL construct transmission lines and appurtenant facilities and not other utility-related facilities.
  - Alternative 5 (Perpetual Flowage Easement on FPL Property) would require the NPS to acquire the EEEA through purchase, condemnation, or donation by FPL. FPL would retain ownership of its 7.4-milelong corridor in the Park during the term of the easement and could construct transmission lines there. As a part of the NPS’s terms and conditions, a flowage easement would be required of the entire FPL property (from Tamiami Trail to 8.5 square mile area). The construction scenario associated with this alternative would be the same as Alternative 1B (FPL construction on its existing land in the Park), except that NPS would acquire a long-term, perpetual flowage easement that provides sufficient flowage for completion of everglades restoration projects.

The NPS did not identify a preferred alternative in the DEIS, but will in the FEIS. However, the NPS did identify an environmentally preferred alternative as Alternative 2 (NPS Acquisition of FLP Land). EPA concurs with the NPS’s Alternative 2 as the environmentally preferred alternative and agrees that Alternative 2 would best restore sheetflow patterns to the EEEA, which is critical to the success of the Comprehensive Everglades Restoration Plan



(CERP). Additionally, Alternative 2 would not impact wetlands or other environmentally sensitive resources.

Regarding EPA's rating of the DEIS, EPA considered each alternative's significance in restoring much needed sheet flow to the everglades as well as supporting the goals of CERP. We also considered wetland and wildlife impacts associated with the construction of transmissions lines. Overall, EPA gives the DEIS a LO (lack of objection) rating. However, EPA notes that only Alternative 2 (environmentally preferred alternative) would allow for the permanent restoration of hydrology of the EEEA and support the goals of CERP without impacting wetlands and other environmentally sensitive resources. All other alternatives (1A, 1B, 3, 4 and 5) either do not allow for permanent restoration of hydrology to the EEEA or would impact wetlands and/or other resources.

We appreciate the opportunity to review the proposed action. Please contact Jamie Higgins at (404) 562-9681 if you want to discuss our comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "H. Mueller", is positioned above the typed name.

Heinz J. Mueller, Chief  
NEPA Program Office  
Office of Environmental Accountability

Enclosures

**Everglades National Park Acquisition  
of Florida Power and Light Company Land In the EEEA DEIS  
Detailed Comments**

**1. Wetlands:**

**a. Chapter 1: Purpose and Need, USACE Clean Water Act Permit (pg 21):** The DEIS states “USACE has requested that FPL consider alternative western transmission corridors that would avoid adverse impacts to Everglades National Park (ENP). As noted previously, FPL notified the USACE on November 5, 2013, that it plans to remove the FPL Western Secondary Corridor from consideration as part of its Section 404 permit application.” The EPA concurs with the NPS recommendations to FPL to seek other western transmission corridors that would avoid adverse impacts to ENP. This would be consistent with the Clean Water Act Section 404(b)(1) Guidelines.

**b. Chapter 2: Alternatives, Table 1 (pg 51-80):** Table 1 lists a summary of the Alternatives. The EPA believes alternatives outside the Park should also have been listed in the table.

**c. Chapter 3: Affected Environment, Vegetation within the Area of possible Relocation Corridor (pg 99) :** States the area of possible relocated corridor east of the Park varies considerably in vegetation cover depending on land use and proximity to highways and developments. The EPA believes the FEIS should include a summary of wetlands impacts associated with transmission corridors east of ENP.

**d. Chapter 4: Environmental Consequences, Indirect Transmission Line Impacts (pg 194-196):** States the following assumptions were factored into the impact analysis of the transmission line construction. The EPA believes native vegetative management required within the transmission lines corridor should be added to this list of assumptions. This is further discussed on page 231.

**e. Appendix F: Construction and Operation of Electrical Power Transmission Facilities (WETLANDS # 3 pg F-21):** The DEIS states all transmission line impacts are proposed to be mitigated through the purchase of credits from the Hole-in-the Donut Wetland Mitigation Bank, which is located within the Park, using a mitigation ratio of 1:1. In order to determine appropriate compensatory mitigation for project impacts, the EPA believes an assessment (Uniform Mitigation Assessment Method) needs to be conducted on the mitigation and impact sites.

**2. Tribal: Chapter 4, Tribal Lands Including Indian Trust Resources (pg 398-399).** The NPS discusses the possible viewshed impacts of the transmission lines (Alternative 3) to the Miccosukee’s casino and hotel, but states that discussions with the tribe indicated that they were not concerned about the viewshed impacts. There is no citation regarding this conversation. EPA recommends that the FEIS provide a citation of the discussion. Additionally, the Tribal cumulative impacts analysis states that no past, present or reasonably foreseeable projects were identified, but does not discuss how the NPS made this determination.

Further, EPA recommends that the NPS better describe the process or methodology used in this determination. Additionally, EPA encourages consultation with the Seminole Tribe and the Miccosukee Tribe at all levels of decision-making. The EPA works closely with both Tribes on Everglades matters and is committed to working with other federal partners to prioritize the Tribes' water quality and water management concerns.

**3. Climate Change: Chapter 1: Climate Change (pg 33):** This section discusses the speculative nature of predicting climate change impacts. EPA agrees that in this particular action (land exchange or purchase of land) that climate change impacts are negligible; however, we disagree with the NPS assertion that the speculative nature of climate change should preclude them from conducting a climate change analysis. EPA recommends for future ENP EISs that the NPS refer to the Council on Environmental Quality's "Draft NEPA Guidance on Consideration of the Effects of Climate Change and Greenhouse Gas Emissions" (February 18, 2010) to better describe the action's impacts on climate change and NPS adaptation measures.

**4. Wildlife Impacts: Chapter 4: Impacts of Alternative 2 (pg 275).** The description of avian impacts seems vague and lacks specific details. EPA recommends that the NPS better describe avian impacts of transmissions lines so that the public can better understand the differences in impacts for each alternative



**U.S. ENVIRONMENTAL PROTECTION AGENCY  
ENVIRONMENTAL IMPACT STATEMENT (EIS) RATING SYSTEM CRITERIA**

EPA has developed a set of criteria for rating Draft EISs. The rating system provides a basis upon which EPA makes recommendations to the lead agency for improving the draft.

RATING THE ENVIRONMENTAL IMPACT OF THE ACTION

- § LO (Lack of Objections): The review has not identified any potential environmental impacts requiring substantive changes to the preferred alternative. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposed action.
- § EC (Environmental Concerns): The review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact.
- § EO (Environmental Objections): The review has identified significant environmental impacts that should be avoided in order to adequately protect the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). The basis for environmental objections can include situations:
  - 1. Where an action might violate or be inconsistent with achievement or maintenance of a national environmental standard;
  - 2. Where the Federal agency violates its own substantive environmental requirements that relate to EPA's areas of jurisdiction or expertise;
  - 3. Where there is a violation of an EPA policy declaration;
  - 4. Where there are no applicable standards or where applicable standards will not be violated but there is potential for significant environmental degradation that could be corrected by project modification or other feasible alternatives; or
  - 5. Where proceeding with the proposed action would set a precedent for future actions that collectively could result in significant environmental impacts.
- § EU (Environmentally Unsatisfactory): The review has identified adverse environmental impacts that are of sufficient magnitude that EPA believes the proposed action must not proceed as proposed. The basis for an environmentally unsatisfactory determination consists of identification of environmentally objectionable impacts as defined above and one or more of the following conditions:
  - 1. The potential violation of or inconsistency with a national environmental standard is substantive and/or will occur on a long-term basis;
  - 2. There are no applicable standards but the severity, duration, or geographical scope of the impacts associated with the proposed action warrant special attention; or
  - 3. The potential environmental impacts resulting from the proposed action are of national importance because of the threat to national environmental resources or to environmental policies.

RATING THE ADEQUACY OF THE ENVIRONMENTAL IMPACT STATEMENT (EIS)

- § 1 (Adequate): The Draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.
- § 2 (Insufficient Information): The Draft EIS does not contain sufficient information to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the Draft EIS, which could reduce the environmental impacts of the proposal. The identified additional information, data, analyses, or discussion should be included in the Final EIS.
- § 3 (Inadequate): The Draft EIS does not adequately assess the potentially significant environmental impacts of the proposal, or the reviewer has identified new, reasonably available, alternatives, that are outside of the spectrum of alternatives analyzed in the Draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. The identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. This rating indicates EPA's belief that the Draft EIS does not meet the purposes of NEPA and/or the Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised Draft EIS.